

TO: Chief Local Elected Officials
Local Workforce Development Board Chairs
Local Workforce Development Boards
Local Workforce Development Board Staff
Oklahoma State Department of Education
Oklahoma Workforce Partners

FROM:

SUBJECT: Defining Work-based Learning Activities and Standards

DATE:

PURPOSE

To provide guidance to high schools, postsecondary institutions, training providers, nonprofits, government agencies, workforce development boards, and other workforce network partners regarding the vision of the Governor’s Council (GCWED) for work-based learning activities for youth. Please also consult Appendix A, which includes Oklahoma Works’ definitions of various types of work-based learning. These definitions were based off of definitions published by the U.S. Department of Labor.

BACKGROUND

The Oklahoma Works initiative represents a strategic partnership between the Oklahoma government, private industry leaders, the public education system, public and private colleges and universities, Career and Technical Education, and non-profits across the state, who are working in collaboration to prepare all Oklahomans with the skills they need for jobs that pay. There currently exists a wide skills gap in the state: of Oklahoma’s 60,000 unfilled jobs, about 18,000 are occupations deemed critical to growing Oklahoma’s economy. Businesses indicate two of the greatest workforce challenges they face are finding people with the right skills and competencies to match job openings, and preventing turnover related to a lack of employability skills (soft skills).

Oklahoma Works aims to close the gap between what students learn in school and what they need for high-demand jobs. The initiative was built on the belief that all Oklahomans — regardless of their previous background or intended career — will need some form of postsecondary credential and practical work experience to be successful. For businesses, Oklahoma Works seeks to ensure that employers have the workforce they require to thrive in the economy of tomorrow. This fills a crucial need in Oklahoma. As of 2015, 46 percent of Oklahomans had a high school diploma or less. Projections show in 2025 only 23 percent of the state’s increasingly robust labor market will be accessible to those Oklahomans who have at most a high school diploma. In other words, there is a 23 percentage point skills gap between the credentials Oklahoma’s current workforce possesses and what the state’s future economy will require.

In an effort to address Oklahoma’s workforce demands, the state has recently set two ambitious goals: Launch Oklahoma and Earn and Learn Oklahoma. Through an Executive Order in December 2016, Governor Fallin established the Launch Oklahoma educational attainment goal, which seeks to ensure that seventy (70) percent of our residents 25-64 years-old have education training beyond high school by the year 2025. In November 2017, the Governor set the “Earn and Learn Oklahoma” goal, which seeks to establish 20,000 quality work-based learning opportunities by 2020 such that more Oklahomans will have access to quality internships and Registered Apprenticeships.

GUIDANCE

The GCWED presents the following definitions, standards, and guidance regarding work-based learning based on best practices and guidance from the U.S. Department of Labor and Workforce Innovation and Opportunity Act (WIOA) definitions.

The GCWED intends for this document to inform other state agency work, investments, and programming as it relates to career readiness and work-based learning. However, it is by no means an exclusive or exhaustive document, and should be supplemented with ongoing conversations with stakeholders. This and corresponding documents will be reviewed on an ongoing basis and is subject to change as stakeholders continue to provide feedback and develop best practices. Included in this guidance is:

1. Vision for work-based learning
2. Definition of work-based learning
3. Standards and expectations for high-quality work-based learning (both general and for specific activities)
4. Guidance for schools and employers regarding insurance and liability as it relates to internships

VISION

Work-based learning is an essential component of a student’s career pathway, building on their classroom knowledge with practical experience in the workplace and interaction with industry and community professionals. Work-based learning allows students to apply and develop their academic, technical, and employability skills, shows students the relevance of their education as it connects to the real world, and prepares them for success in college and career. Our vision is that by 2020:

- All high schools will provide access to high-quality work-based learning programming tied to student Individual Career and Academic Plans (ICAP)
- Each year, at least 20,000 Oklahomans will complete a high-quality work-based learning opportunity

- All career pathway programs promoted by the Council will be aligned to the Wealth Generating Driver and Complementary Economic Systems¹ and/or Oklahoma Works' 100 Critical Occupations²
- Business-led standards for quality apprenticeships, internships, and other work-based learning activities will be created in a variety of industries within the state's nine driver and complementary economic systems
- State initiatives and program sponsors will adhere to standards for equity and fair access to quality work-based learning experiences for all Oklahomans, including, but not limited to, women, out-of-school youth, adults, African Americans, Hispanics, Native Americans, veterans, individuals with disabilities and other target populations identified in the federal Workforce Innovation and Opportunity Act and the Launch Oklahoma Strategic Plan³

DEFINITIONS

The GCWED defines a **work-based learning activity** as a planned, structured learning experience that provides Oklahomans with real-life or simulated work experiences where they can develop and apply academic, technical, and essential skills; and contributes to the achievement of their postsecondary and employment goal(s). The GCWED is employing a flexible definition of work-based learning, encompassing the activities below:

- **Job Shadow:** Job shadow experiences allow students to explore a specific career of interest by observing an experienced employee performing their typical work duties in a real-world work environment. The job shadowing work experience is a temporary, unpaid exposure to the workplace in an occupational area of interest to the participant. Job shadowing typically includes a partnership between a business and education/training institution and provides relevant career information to assist students in making career choices. Individuals witness firsthand the work environment, employability and occupational skills in practice, the value of

¹ Through a comprehensive quantitative analysis of 72 variables and over 48,000 data points, Oklahoma has identified nine driver and complementary economic systems representing the most prominent industries in terms of wealth generation and growth potential. Driver Ecosystems drive wealth generation in Oklahoma and include: Aerospace and Defense; Agriculture and Biosciences; Energy; Information and Financial Systems; and Transportation and Distribution. Complementary Ecosystems help to expand wealth in the economy. Provide the infrastructure and services to support the driver systems in the state and include: Construction; Health Care; Education; and Creative Industries.

² Oklahoma's Critical Occupations represent the most pressing needs in each of Oklahoma's Driver and Complementary Economic Systems necessary for the state's continued growth and economic prosperity.

³ Priority populations identified in the State of Oklahoma Workforce Innovation and Opportunity Act Unified State Plan are: Long-term unemployed; Low-income adults; Low literacy adults, including those without a high school diploma; Low-skilled adults; Individuals with disabilities, including youth with disabilities; Those receiving public assistance; Out-of-school youth; Veterans; Migrant and seasonal farm workers; Re-entry individuals (ex-offenders); English Language Learners; Older individuals; Homeless individuals; Single parents; Youth in the foster system or who have aged out; Displaced homemakers; Veterans with disabilities; Indians, Alaska Natives, and Native Hawaiians. Additional populations identified through the Launch Oklahoma Strategic Plan include; rural populations; Hispanics and African Americans.

professional training, and potential career options. A job-shadowing experience can be anywhere from a few hours, to a day, to a week or more.

- **Internship:** A position for a student or trainee to work in an organization for a limited duration, sometimes without pay, to gain work experience, satisfy requirements for a credential, and/or gain course credit. An internship may be arranged within the private for-profit sector, the non-profit sector, or the public sector.

For youth internships where students are receiving K-12 academic credit, the following guidelines were set by the Oklahoma State Department of Education in 2017:

- Students must be juniors or seniors to participate in an internship.
- A maximum of 2 high school elective hours, of the 6 rigorous course hours required per school day, can be used for such programs. (The 2 hours include student travel to internship site.) A senior student may petition their local school board to increase to 3 hours if that fits into the student's schedule.
- Internships will count as a semester course and can be repeated for elective credit – up to ½ credit per semester (per class - consistent with concurrent enrollment)
- Districts are encouraged to consider developing local policies and guidelines to govern internship programs including:
 - Agreements between the school and business
 - Grading rubrics for school, student and business (e.g. attendance)
 - Feedback forms for business
 - Performance evaluations for students
 - Workplace Safety

See page seven (7) for additional information on internship expectations for schools, students, employers and intermediaries.

- **Pre-Apprenticeship:** A pre-apprenticeship is a program designed to prepare individuals to enter and succeed in a Registered Apprenticeship program. Pre-apprenticeship models allow individuals to master essential basic skills and then individuals are directly accepted into the apprenticeship program, often receiving credit for prior experience. Basic essential skills could include training in math, literacy, communication, and other pre-vocational and vocational skills that are essential for future success in a Registered Apprenticeship program. Through a variety of unique designs and approaches, pre-apprenticeship programs can be adapted to meet the needs of differing populations being trained, the various employers and sponsors they serve, and specific opportunities within the local labor market. Pre-apprenticeships have formal relationships with one or more Registered Apprenticeship programs.
- **Apprenticeship:** Highly-formal job training experience that involves studying with a master of the trade or experienced mentor on the job. Registered Apprenticeships refer to those programs which are registered with the U.S. Department of Labor (DOL). Registered Apprenticeship

programs are a written plan designed to move an apprentice from a low or no skill entry-level position to full occupational proficiency. Registered apprenticeship is an employer-driven, “earn while you learn” model that combines on-the-job training with related technical instruction, resulting in an industry-recognized national certification upon completion. Apprenticeships are full-time, paid positions that provide specialized training in specific occupational skills. Apprentices receive on-the-job training (OJT) from an experienced mentor at the job site that is supplemented by related technical instruction. DOL recommends a minimum of 2,000 hours of on-the-job training and 144 hours of related technical instruction per year of an apprenticeship.

Expectations for Registered Apprenticeship programs are defined in the U.S. Department of Labor’s Standards of Apprenticeship which are customized to each employing program sponsor. All Registered Apprenticeship programs must meet parameters established under the National Apprenticeship Act that are designed to protect the welfare of the apprentice.⁴

The GCWED recommends that schools, districts, industry partners, businesses, community-based organizations, and others engaged in work-based learning design and implement activities which are safe, follow all State and Federal labor laws, allow students to earn academic credit and/or wages, and meet standards for quality outlined below, and in the additional detailed work-based learning guidance document.

Work-based learning opportunities should be:

- **Rigorous:** Skill-based, and tied to measurable outcomes. The experience should allow a student to gain measurable skills, whether those be essential skills (also known as employability skills, soft skills, or 21st century skills) or hard technical skills.
- **Relevant:** Connected to a student’s interests, as indicated in his/her Individual Career Academic Plan (ICAP)⁵, where relevant, and to the real world of work. Projects and tasks should mirror those that exist in a real workplace, and should align to high-wage, high-demand industries in Oklahoma, including those industries included on the state’s [Critical Occupations List](#).
- **Reflective:** Engages the student in reflection and analysis throughout and after the experience, including guided self-reflection (ex. through the ICAP process) and meaningful evaluations from industry professionals. In this process, students should connect the work-based learning experience to their academic work as well as future professional and educational goals.

⁴ See the U.S. Department of Labor’s “What is Apprenticeship” page for additional information.
<https://www.doleta.gov/OA/apprenticeship.cfm>

⁵ An ICAP uses a multi-year process to guide students as they explore their career and academic opportunities using career clusters, career pathways, and programs of study. An ICAP identifies student interests, skills, secondary/postsecondary coursework, certificates, credentials, degrees and workforce experiences that lead to a meaningful program of study that charts the progress needed to prepare students for college and career.

- **Interactive:** Providing multiple and extended opportunities for students to interact with industry professionals, whether as supervisors, mentors, advisors, or collaborators.
- **Integrated:** Connected with the student's school-based curriculum. A work-based learning experience is a practical application of academic and/or technical learning and should allow the student to practice the theory learned in the classroom in a real-world setting.

The GCWED recommends that both K-12 and postsecondary work-based learning opportunities are structured to include mentor/mentee relationship models. GCWED also recommends that high-quality work-based learning activities be designed in order for individuals to develop and apply employability skills.

Employability Skills⁶ Definition: Often called soft skills, employability skills include: Personal Skills (integrity, initiative, dependability/reliability, adaptability, professionalism), People Skills (teamwork, communication, respect), Workplace Skills (planning and organization, problem solving, decision making, business fundamentals, customer focus, working with tools and technology), and Applied Knowledge (reading, writing, mathematics, science, technology, critical thinking). These skills are interconnected to allow employers to look at the full scope of what skills are necessary in all major economic sectors. Attainment of these business-defined skills prepares individuals for careers and for further education and training.

The GCWED recommends that work-based learning activities focus on the following employability skills:

- **Collaboration and teamwork:** Works effectively within and contribute to teams, learns from and works collaboratively with others, shows adaptability and flexibility, and effectively negotiates conflict. Skills: Teamwork, Communication, Respect
- **Communication:** Listens actively and articulates and presents information clearly and effectively in written, visual, and verbal forms. Skills: Writing, Listening, Speaking, Professionalism,
- **Critical thinking and applied knowledge:** Distills and analyzes information, makes judgements based on evidence, uses data and information to solve problems, and applies critical knowledge necessary for workforce success. Skills: Reading, Writing, Mathematics, Science, Technology, Critical Thinking
- **Initiative and self-management:** Works independently as needed, monitors and prioritizes his/her own time and tasks, takes initiative to solve problems as appropriate, and employs persistence to take tasks to completion. Skills: Planning and Organization, Problem Solving, Decision Making, Business Fundamentals, Customer Focus, Working with Tools and Technology

⁶ National Network of Business and Industry Associations. (2014). Common employability skills: A foundation for success in the workplace: The skills all employees need, no matter where they work.
https://businessroundtable.org/sites/default/files/Common%20Employability_asingle_fm.pdf

- **Professionalism:** Follows and can articulate workplace norms such as punctuality, appropriate workplace communication and interactions, and professional dress. Skills: Integrity, Initiative, Dependability and Reliability, Adaptability, Professionalism

DRAFT

STANDARDS FOR HIGH-QUALITY YOUTH INTERNSHIPS

Internship: A position for a student or trainee to work in an organization for a limited duration, sometimes without pay, to gain work experience, satisfy requirements for a credential, and/or gain course credit.	
Outcomes:	<ul style="list-style-type: none"> • Student earns wages and/or academic credit and/or industry credential • Student demonstrates knowledge of occupation and industry • Student demonstrates knowledge and capacity for networking and professional culture • Student demonstrates growth in industry knowledge, technical skills, and essential skills according to assessments, reflections, portfolios, and/or employer evaluations • Student and employer have positive experience according to feedback and evaluations
Youth-serving organization (school, youth center, community-based organization, other) and/or Intermediary expectations:	<ul style="list-style-type: none"> • Work with employers to identify needed skills and develop job descriptions outlining relevant, rigorous, and age-appropriate tasks and projects which allow student to practice a variety of professional, academic, and technical skills • Ensure student preparation with regard to employability skills and required technical skills; if applicable, deliver pre-internship curriculum and/or internship orientation to prepare students • Screen applicants and facilitate interviews and placements • Support supervisors and interns during internship as primary point of contact • Conduct a minimum of one check-in call to ensure quality and appropriateness of placement • Establish and make students aware of clear process and protocol for intervention in the case of a conflict or issue • Develop and ensure completion of supervisor and intern evaluations • Manage payroll and liability logistics (if applicable) • Award academic credit to student* • Intentionally connect internship to career education pathway, Individualized Learning Plan (ICAP), and/or academic curriculum*

Employer Expectations:	<ul style="list-style-type: none"> • Recruit internship supervisors and mentors • With assistance from youth-serving organization and/or intermediary, develop clear job description outlining relevant, rigorous, and age-appropriate tasks and projects which allow student to practice a variety of professional, academic, and technical skills • Verify that internship meets all safety regulations and labor laws • Help interview and select interns • Supervisor on-boards interns and meets regularly with student to provide feedback and assess progress • Supervisor completes evaluations tied to measurable outcomes and skills outlined in the job description to evaluate intern performance and progress • Provide intern access to a professional mentor to guide him/her in career goals • Integrate intern into company teams and facilitate regular engagement with employees* • Provide opportunities for intern to have ownership of distinct projects in addition to day to day work* • Pay wages to student*
Student Expectations:	<ul style="list-style-type: none"> • Successfully complete application and/or work readiness training prior to internship • Demonstrate competency in employability skills, such as arriving to work on time, dressing and communicating professionally, adhering to deadlines, etc. • Reflect on experience and learning in ICAP, where relevant • Complete internship evaluation

***Starred standards are encouraged but not required.**

Legal Questions Regarding Youth in the Workplace

The Governor's Council for Workforce and Economic Development (GCWED) has adopted the following guidance to assist employers interested in work-based learning opportunities. The GCWED goals are for schools and businesses to design and implement work-based learning and career exploration experiences that are:

- Meaningful and valuable to the student and business;
- Safe for the student and everyone at the workplace; and,
- Opportunities for students to explore and learn valuable technical and professional skills while earning wages and/or course credit.

When students participate in work-based learning and career exploration at a workplace outside of school, questions and concerns often arise around legal issues, particularly regarding liability and insurance. Many times, issues of liability arise related to work-based or occupation specific concerns rather than issues of age. Schools and businesses will generally find that they already possess the necessary insurance coverage to engage in student career exploration and work-based learning experiences with limited added risk. This includes such things as internships, job shadowing, and site tours. The best way to reduce risk is to ensure that students, businesses, and parents/guardians are fully aware of the nature of the career exploration or work-based learning activity and any additional risks associated with the experience. When appropriate, participants should prepare for the activity by mastering the knowledge and skills required to limit the potential for injury or accident (e.g. safety training, hazardous materials training, etc.). Additionally, paid internships create an employer-employee relationship and provide clear recourse should accidents occur.

1. **Age Restrictions:** Students 16+ can engage in work-based learning, and businesses should follow applicable [child labor laws](#) regarding hours worked and hazardous occupations when designing these opportunities. Students 14-15 may also legally work, however the laws are stricter.

Recommendation: Students of all ages can participate in career exploration activities like site tours and job shadowing. Businesses should design these activities to avoid safety risks to younger students. The GCWED recommends that internships be designed for students 16 and over.

2. **Liability of Businesses:** The issue of liability arises whenever any business has individuals on its work site. A business' Comprehensive General Liability (CGL) policy should cover students and volunteers engaging in paid or unpaid career exploration and work-based learning activities, like site tours, job shadowing, and internships. Exposure to liability is generally no different than what exists relative to employees and the general public, such as when visitors enter the workplace; and CGL policies should not increase in cost because of minors at the work-site. If students are paid and considered employees of the business, students and the business are

protected as in any other employer-employee relationship, and the student would be eligible for Workers' Compensation benefits should he/she be injured during the paid work experience. Workers' Compensation costs are based on employee classification and rates and not the age of the employee. Therefore, Workers' Compensation premiums should not increase substantially because wages for student workers will typically be low. If the student is unpaid, the business' CGL policy should cover what the student's personal health insurance will not in the case of injury.

Recommendation: To participate in paid or unpaid career exploration and work-based learning activities, businesses must have Comprehensive General Liability (CGL) policies and must ensure that those policies will cover students in the workplace. Whenever possible, students should be paid for their work experiences, and paid students must be covered by the employer's Workers' Compensation insurance. For unpaid career exploration and work-based learning activities, it is recommended that schools and host businesses enter into "Indemnification, Hold Harmless" contracts in which schools extend their liability policies to businesses to provide added peace of mind. Unpaid career exploration and work-based learning experiences should also follow the criteria as put forth by the [U.S. Department of Labor](#). It is the responsibility of each employer to determine whether or not internships should be paid according to the employer's internship program and understanding of DOL's Fair Labor and Standards Act. Businesses and interns should sign an agreement that clearly explains the terms of the program. The agreement should set forth the following: whether the intern is an "employee" or not; whether the internship is paid or not; a description of the work, experience, exposure, teaching, mentorship, etc. provided to the intern; duration of the internship and whether it is tied to a school program or credit; and that there's no guarantee of future employment. Also see Appendix B.

3. **Liability of Schools:** School liability policies generally do cover school-sponsored activities off-site, including things like tours and internships. Schools, school staff, and school committee members are generally protected under school liability policies if students are hurt, injure another employee, or do damage at a worksite. School liability policies typically do not cover individual students for any activities, in the event that they are injured or cause damage.

Recommendation: Schools should have liability insurance policies and ensure with their provider that those policies cover off-site school-sponsored career exploration and work-based learning activities, such as tours, job shadowing, and internships. Schools should also consider offering basic accident or catastrophic insurance to students as added protection in the case of accident or injury.

4. **Safe and Informed Experiences:** Above all, students, parents/guardians, and businesses should be fully aware of the opportunities and risks of work-based learning activities, and should be clear on the expectations of the experience. Businesses should be expected to maintain safe working environments in terms of physical safety and discrimination and harassment. Students

should be fully prepared for the experiences and expected to follow the norms and expectations of their worksite.

Recommendation: Schools and/or intermediaries⁷ managing internships should hold comprehensive orientations for businesses and students covering topics such as workplace safety, workers' rights, and discrimination and harassment and clear lines of recourse in case any situations should occur. Agreements between interns and businesses should be written and signed by both parties in order to ensure shared expectations and ensure compliance with DOL criteria. Parents should sign permission forms and waivers for their students to engage in career exploration and work-based learning experiences and acknowledge the added risks of these activities. Parents and guardians should also give permission for transportation to the work sites, whether that is through public transportation, school transportation, or students transporting themselves. Schools and/or intermediaries may also want to request and confirm student medical and auto insurance coverage, if applicable.

This document does not substitute for the advice of an attorney or of the government agencies charged with administering and ensuring compliance with applicable laws.

⁷ The U.S. Department of Labor defines an intermediary as an industry association, labor-management partnership organization, workforce intermediary, consortium of employers, state-wide community college system or consortium of community colleges. U.S. DOL further defines a workforce intermediary as organizations that proactively address workforce needs using a dual customer approach — one which considers the needs of both employees and employers. Examples of organizations that can function as workforce intermediaries include faith-based and community organizations, employer organizations, community colleges, temporary staffing agencies, workforce investment boards and labor organizations.

APPENDIX A

Types of Work-Based Learning under WIOA

REGISTERED APPRENTICESHIP

Registered Apprenticeship is an employer-driven, “earn while you learn” model that combines on-the-job training with related technical instruction, resulting in an industry-recognized national certification upon completion. Apprenticeships are full-time, paid positions that provide specialized training in specific occupational skills. Apprentices receive on-the-job training (OJT) from an experienced mentor at the job site that is supplemented by related technical instruction. DOL recommends a minimum of 2,000 hours of OJT and 144 hours RTI per year of an apprenticeship. RTI may be provided by an educational provider or the employer and can be delivered at a school, online, or at the job site. Registered Apprenticeships are typically one to six years in length, with a national average of four years. WIOA funds may be used to support placing participants in both OJT and RTI portions of the program. WIOA funds can also be used to provide supportive services to participants that help an individual succeed in a Registered Apprenticeship program.

Target Populations – Youth, adults and dislocated workers, veterans in receipt of the GI Bill, unemployed workers (including long-term unemployed), underemployed workers, and incumbent workers.

PRE-APPRENTICESHIP PROGRAMS

A pre-apprenticeship is a program designed to prepare individuals to enter and succeed in a Registered Apprenticeship program, which includes:

- Training and curriculum that aligns with the skill needs of employers in the economy of the State or region
- Access to educational and career counseling, and other supportive services
- Hands-on, meaningful learning activities that are connected to education and training activities, such as exploring career options, understanding how skills acquired through coursework can be applied to a future career
- Opportunities to attain at least one industry-recognized credential; and
- A partnership with one or more registered apprenticeship programs that assists in placing individuals who complete the pre-apprenticeship into a registered apprenticeship program

Quality pre-apprenticeship programs contribute to the development of a diverse and skilled workforce by preparing participants to meet the basic qualifications for entry into one or more Registered Apprenticeship programs. Through a variety of unique designs and approaches, pre-apprenticeship programs can be adapted to meet the needs of differing populations being trained, the various employers and sponsors they serve, and specific opportunities within the local labor market.

Target Populations – Youth and adults with barriers to employment who are identified to need certain skills or credentials in order to successfully enter into a registered apprenticeship program, dislocated workers transitioning to new industries or occupations in need of new skills, other eligible individuals identified by case managers as likely to succeed and have an interest in registered apprenticeship programs.

WORK EXPERIENCES AND INTERNSHIPS

A work experience or internship is a planned, structured learning experience that takes place in a workplace for a limited period of time. Due to the limited duration, participants are generally not obligated to work for the employer after the experience is over. Work experiences or internships may be paid or unpaid, as appropriate and consistent with other laws, such as the Fair Labor Standards Act. A work experience or internship may be arranged within the private for-profit sector, the non-profit sector, or the public sector.

For youth, work experiences may also include:

- Pre-apprenticeship programs;
- Summer employment and other employment activities available throughout the school year;
- Internships and job shadowing;
- and On-the-job training (OJT)

Target Populations – Youth/adults with barriers to employment who have limited labor market experience, dislocated workers needing exposure to new industries/occupations, unemployed workers, underemployed workers, long-term unemployed workers, and other populations determined appropriate by case manager.

TRANSITIONAL JOBS

Transitional jobs are a type of work-experience local boards may provide under WIOA, and are considered an individualized career service. Transitional jobs are time-limited and wage-paid work experiences that can be subsidized up to 100 percent. The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace and develops the skills that lead to entry into, and retention in, unsubsidized employment. Although there is no assumption that the

individual will be retained in the transitional job after the work experience is over, retention is the preferred outcome. These jobs are in the public, private, or nonprofit sectors.

Target Populations – Adults and dislocated workers with barriers to employment who are chronically unemployed or have an inconsistent work history.

ON-THE-JOB TRAINING (OJT)

OJT is a short-term training program designed to prepare workers for a job that requires from 6 to 24 months of training and usually does not require related educational training. OJT supports employers by adding staff capacity, productivity and training at reduced costs. OJT encourages public, private non-profit or private employers to hire an individual, or upgrade an eligible employed worker, who would not otherwise qualify for the job and to teach the skills requisite to perform at the job. The employer is responsible for designing the on-site training, aligned with the skills required for the job. OJT allows the employee an opportunity to “earn as they learn” in a hands-on environment, acquire job skills, and provides an opportunity for long-term employment. OJT provides reimbursements to employers to help compensate for the costs associated with skills upgrade training for newly hired employees and the lost production of current employees providing the training (including management staff). OJT training can assist employers who are looking to expand their businesses and who need additional staff trained with specialized skills. OJT employers may receive up to 50% reimbursement of the wage rate (in certain circumstances up to 75%) of OJT trainees to help defray personnel training costs. Under some programs, such as those funded by H-1B fees, OJT reimbursement may be as high as 90%, depending on employer size.

Target Populations – Adults and dislocated workers in need of new employer-based skills, individuals with barriers to employment including: unemployed workers (including long-term unemployed), underemployed workers, and older/out-of- school-youth.

CUSTOMIZED TRAINING

Customized training is designed to meet the specific requirements of an employer or group of employers with the commitment that the business or businesses employ an individual(s) upon successful completion of the training. In most instances, the business must pay for a significant portion of the cost of training, as determined by the Local Workforce Development Board (WDB).

Target Populations – Adults and dislocated workers with barriers to employment needing industry or occupational skills, unemployed workers (including long-term unemployed), underemployed workers, and employed workers.

INCUMBENT WORKER TRAINING

Incumbent Worker training is designed to meet the needs of an employer or group of employers to retain a skilled workforce or avert layoffs. Incumbent Worker training can be used to either:

- Help avert potential layoffs of employees; or
- Obtain the skills necessary to retain employment, such as increasing the skill levels of employees so they can be promoted within the company and create backfill opportunities for new or less-skilled employees.

Unlike other trainings, employers, instead of individuals, must meet the local eligibility criteria to receive funds for training their workforce. In most circumstances, incumbent workers being trained must have been employed with the company for at least six months. Employers who receive these funds are required to meet requirements for providing the non-federal share of the cost of the training.

Target Populations – Businesses and employers who meet local eligibility criteria to receive incumbent worker training funds and who need to provide training to their current workforce to meet new or changing business needs.

APPENDIX B

Article from: NewsOK.com

Written by: Paula Burkes

Published on: April 5, 2018

“Q&A with Gauri Nautiyal⁸: Complex issues may arise for companies desiring interns”

Q: Do companies need to pay summer interns?

A: Maybe. An intern always can be paid minimum wage or more. The more complex issue arises for those organizations desiring an unpaid internship program. In interpreting the Fair Labor Standards Act (FLSA), the United States Department of Labor (USDOL) utilizes a “primary beneficiary test” to determine whether an intern in the for-profit sector qualifies to be exempt from the FLSA's minimum wage and overtime provisions. In January, the USDOL implemented this more streamlined rule than that applied in the past. Under this updated guidance, seven factors need to be weighed to identify the primary beneficiary in determining whether an employment relationship with an intern or student exists: clear understanding to the intern that the internship is unpaid; the internship provides training that would be given in an educational environment; the intern's completion of the program entitles him or her to academic credit; the internship corresponds to the academic calendar; the duration of the internship is limited to period of “learning;” the intern complements rather than displaces the work of regular employees; and there is a clear understanding that there is no guarantee of paid, full-time employment at the internship's end. These seven factors aren't an exhaustive list, and need to be weighed all together in determining whether your organization's internship can qualify as an unpaid program. No single factor is a determinate. This new guidance also states that unpaid internships are generally permissible at nonprofit charitable organizations,

⁸ Gauri Nautiyal is an associate attorney with Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

religious organizations, and civic/humanitarian organizations. Oklahoma law follows the federal wage and hour law requirements, so as an employer in Oklahoma, you must follow this new USDOL guidance.

Q: Does the intern need to sign any sort of agreement?

A: Yes. All interns should sign an agreement clearly explaining the terms of the program. The agreement should set forth the following: whether the intern is an “employee” or not; whether the internship is paid or not; a description of the work, experience, exposure, teaching, mentorship, etc. provided to the intern; duration of the internship and whether it is tied to a school program or credit; and that there's no guarantee of future employment.

Q: If the internship is unpaid, do employee policies apply to the summer intern?

A: No, unless you purposefully want to create an employment relationship. But you can create special policies and/or contracts that apply specifically to unpaid interns. For instance, your company can have an anti-harassment/anti-discrimination policy, safety/workplace violence policy, and a mandatory arbitration policy that applies specifically to interns.

Q: What kinds of potential legal claims do I need to consider with legal interns?

A: If an intern is paid, and therefore is an employee, he or she may be able to assert a claim against your company under Title VII (prohibiting discrimination based on race, color, sex, religion, or national origin) or the ADA (Americans with Disabilities Act), for instance. There may be workers' compensation implications if an intern is injured while on the job. Furthermore, if the intern is paid, he or she could bring a wage and hour claim against your company as well. A claim can be brought against your company, based upon your intern's conduct if the intern is perceived as your “agent.” Therefore, in order to avoid this vicarious liability for unpaid interns, be mindful of whether the intern is wearing an employee uniform reflecting your company's name, or is driving a company car, or is carrying a company bag, and things of that nature. Simply because their title is “intern” isn't sufficient to dispute a reasonable belief that the unpaid intern is acting as your agent. Be cautious about ratifying the intern's conduct or treating the intern as your agent. Also, be cautious of how the interns are utilized and provide careful supervision over the intern's assigned duties and activities.

Q: Should I review my company's or organization's internship program?

A: Absolutely. Review how your internship program is set up and how it's advertised. Ensure your organization or company is consistent across paper materials and what the website reflects regarding unpaid versus paid internships, school credit, and structure of the program. Make sure costs, fees, pay and duties are clearly stated. Update your recruiting materials if

they're out of date. Revise or draft the agreements or policies you specifically want to apply to your interns.

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